DIGITAL

Guidelines

Guidelines on certification as an out-of-court dispute settlement body

Bundesnetzagentur

Guidelines on certification as an out-of-court dispute settlement body

May 2026

**Bundesnetzagentur für Elektrizität, Gas,
Telekommunikation, Post und Eisenbahnen**

Section 902

Tulpenfeld 4
53113 Bonn
Tel.: +49 228 14-0
Fax: +49 228 14-8872
E-Mail: DataAct@bnetza.de

Contents

Contents 3
1 Introduction 5
1.1 Requirement for official certification as a dispute settlement body 5
1.2 Legal framework 5
1.2.1 Requirements for certification 5
1.2.2 Requirement to provide information to the Bundesnetzagentur 6
1.2.3 Decision on certification 6
1.2.4 Fees 6
1.2.5 Maintenance of a register by the Bundesnetzagentur 6
1.2.6 Nature of dispute settlement proceedings 6
1.3 Aim of the guidelines 7
2 Guidelines 7
2.1 Structure of the guidelines 7
2.2 Information about the application process 7
2.2.1 Completed online form 7
2.2.2 Additional information 7
2.2.3 Changes 8
2.2.4 Decision 8
2.2.5 Confidential information and trade and business secrets 8
2.2.6 Freedom of information 8
2.2.7 Personal Data 8
2.3 Applications and requirements for certification 8
2.3.1 Details of the dispute settlement body 8
2.3.2 Period of validity of certification 8
2.3.3 Details of impartiality and independence 9
2.3.4 Clear, non-discriminatory and fair rules of procedure 11
2.3.5 Details of expertise 13
2.3.6 Details of accessibility through electronic communication technology 15
2.3.7 Details of the length of proceedings, efficiency, costs and language skills 15
List of abbreviations 19
Annex 20
Publisher's details 23

1 Introduction

Article 10(1) of Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) gives users, data holders and data recipients the right to address a certified dispute settlement body of their choice to settle disputes relating to certain provisions of the Data Act. The disputes that can be brought before dispute settlement bodies are all listed in Article 10(1) and (4) of the Data Act:

- disputes between a user and a data holder relating to contractual restrictions or prohibitions on access to security-related data concerning the security requirements of a connected product as laid down by law, pursuant to Article 4(3) of the Data Act;
- disputes between a user and a data holder relating to withholding data sharing on account of trade and business secrets, pursuant to Article 4(9) of the Data Act;
- disputes between a third party and a data holder relating to withholding data sharing on account of trade and business secrets, pursuant to Article 5(12) of the Data Act;
- disputes between users, data holders and data recipients relating to the fair, reasonable and non-discriminatory terms and conditions for, and transparent manner of, making data available, pursuant to Chapter III and Chapter IV of the Data Act;
- disputes between customers and providers of data processing services relating to breaches of the rights of customers and the obligations of providers of data processing services, pursuant to Articles 23 to 31 of the Data Act.

1.1 Requirement for official certification as a dispute settlement body

Dispute settlement bodies must be formally certified by the competent state supervisory authority in the Member State where they are established. Dispute settlement bodies established in Germany will be formally certified by the Bundesnetzagentur following a reasoned request in accordance with section 5(1) of the DADG. Certification by the competent supervisory authority is valid for the territory of the European Union.

1.2 Legal framework

1.2.1 Requirements for certification

A body applying for certification as a dispute settlement body must demonstrate to the Bundesnetzagentur that it meets the organisational and technical requirements set out in Article 10(5) of the Data Act and section 5 of the DADG to receive certification.

The relevant conditions for certification require a dispute settlement body to demonstrate that:

- it is impartial and independent and will issue its decisions in accordance with clear, non-discriminatory and fair rules of procedure;

- it has the necessary expertise, in particular in relation to fair, reasonable and non-discriminatory terms and conditions, including compensation, and on making data available in a transparent manner, allowing the body to effectively determine those terms and conditions;
- it is easily accessible through electronic communication technology;
- it is capable of adopting its decisions in a swift, efficient and cost-effective manner in at least one official language of the Union.

Applicants are responsible for demonstrating that they meet the conditions for certification and it is therefore in their own interests to cooperate with the Bundesnetzagentur as the authority issuing certification. Proof of compliance with the requirements mentioned in these guidelines must be provided. It is important for applicants to ensure that they answer all questions fully and correctly to avoid delays in the application process. The Bundesnetzagentur may request additional supporting documents at a later stage.

1.2.2 Requirement to provide information to the Bundesnetzagentur

Dispute settlement bodies are required by section 5(2) sentence 2 of the DADG to inform the Bundesnetzagentur immediately of any subsequent changes in circumstances that affect compliance with the requirements in Article 10(5) of the Data Act.

Note: failure to provide information, provide information in full or provide information in time is a regulatory offence under section 15(1) para 1 of the DADG and is punishable with a fine of up to five hundred thousand euros.

1.2.3 Decision on certification

In accordance with section 5(4) sentence 1 of the DADG, secondary conditions can be attached to certification as a dispute settlement body if necessary to guarantee compliance with the requirements in Article 10(5) of the Data Act. In accordance with section 5(4) sentence 2 of the DADG, restrictions can be attached to certification, in particular with respect to the expertise required in Article 10(5)(b) of the Data Act. The Bundesnetzagentur can wholly or partially revoke certification, subsequently amend certification, subsequently attach secondary conditions to certification or amend secondary conditions to guarantee compliance with the requirements in Article 10(5) of the Data Act if necessary due to subsequent changes in circumstances.

1.2.4 Fees

The Bundesnetzagentur will charge a fee for certification of an entity as a dispute settlement body in accordance with section 5(8) of the DADG. The level of the fee will be laid down in a special fee ordinance under section 22(4) of the German Act on Fees and Expenses for Federal Services.

1.2.5 Maintenance of a register by the Bundesnetzagentur

Certified dispute settlement bodies will be entered by the Bundesnetzagentur in a register of certified bodies that will be transmitted to the European Commission on a regular basis. The European Commission publishes a list of all certified dispute settlement bodies in the European Union.

1.2.6 Nature of dispute settlement proceedings

The dispute settlement procedure is a voluntary, out-of-court procedure. Dispute settlement by a certified dispute settlement body is therefore only possible if the parties agree to the procedure. In accordance with

Article 10(12) of the Data Act, the outcome of dispute settlement proceedings is only binding on the parties if the parties have explicitly consented to its binding nature prior to the start of the proceedings. In addition to referring a dispute to a certified dispute settlement body, parties are free at any time to seek redress before a court or tribunal or lodge a complaint with the competent authority.

1.3 Aim of the guidelines

The Bundesnetzagentur has drawn up these guidelines together with the application form to provide information about the certification procedure for interested bodies.

The aim of the guidelines is to help bodies that are interested in certification understand what is required of dispute settlement bodies both in the certification procedure and with respect to compliance with their statutory obligations in the course of their activities.

The guidelines are based on the Data Act and the DADG. They are not a substitute for the relevant statutory provisions and do not constitute legal guidance but are intended to make transparent the Bundesnetzagentur's arrangements for the certification procedure required by law. The guidelines will be updated at regular intervals and the latest version will be made available on the Bundesnetzagentur's website.

2 Guidelines

2.1 Structure of the guidelines

The guidelines are divided into two parts. The section titled "Information about the application process" contains general information about certification as a dispute settlement body and the certification procedure. The section titled "Applications and requirements for certification" contains details of the individual requirements in the order that they appear in the application form. Several subsections end with a list of documents that are suitable for demonstrating compliance with the individual requirements. These lists contain examples and are not necessarily exhaustive. Documents that demonstrate compliance with more than one requirement only have to be submitted once. The information provided by an applicant together with the supporting documents submitted should enable the Bundesnetzagentur to assess whether the applicant meets the conditions for certification.

2.2 Information about the application process

2.2.1 Completed online form

Applicants must make sure that the information they provide is complete and correct and that they submit all the relevant supporting documents.

2.2.2 Additional information

The Bundesnetzagentur can request additional information and/or other supporting documents during and after its review of an application for certification to assess whether the dispute settlement body applying for certification meets the requirements for certification.

2.2.3 Changes

Section 5(2) sentence 2 of the DADG requires dispute settlement bodies to inform the Bundesnetzagentur immediately, in writing, of any circumstances or changes in circumstances that relate in any way to the information and/or supporting documents that was/were provided in their initial application and that served as the basis for the Bundesnetzagentur's assessment of their compliance with the conditions for certification. Failure to inform the Bundesnetzagentur is a regulatory offence under section 15(1) para 1 of the DADG and is punishable with a fine of up to five hundred thousand euros.

Note: this obligation applies during the whole period of validity of certification.

2.2.4 Decision

The Bundesnetzagentur will make a decision in writing once it has received all the information enabling it to process an application and has reviewed all the supporting documents submitted.

2.2.5 Confidential information and trade and business secrets

Applicants can redact any information that they consider to be commercially sensitive to protect confidentiality. In this case, they must submit both a redacted and an unredacted copy of their document(s) with their application and must provide sound reasons why they consider the information to be confidential.

2.2.6 Freedom of information

Access to official records held by the Bundesnetzagentur can be requested by persons in accordance with the German Freedom of Information Act (IFG). Under the provisions of the IFG, certain documents containing intellectual property or trade and business secrets are exempt from publication. If a request for access to information affects the interests of an applicant, the Bundesnetzagentur will give the applicant the opportunity to submit its views in writing before a decision on the request under the IFG is made.

2.2.7 Personal Data

The Bundesnetzagentur uses applicants' personal data for further processing and correspondence in compliance with its data protection statement, which is available here: https://www.bundesnetzagentur.de/EN/Service/DataProtection/start.html**Fehler! Linkreferenz ungültig.**.

2.3 Applications and requirements for certification

This section explains the certification requirements for which information must be provided in the certification procedure.

2.3.1 Details of the dispute settlement body

The details required here are the name, address and contact details of the body and the name and contact details of the body's main contact person.

2.3.2 Period of validity of certification

The Data Act does not include any explicit rules about the period of validity of certification. However, dispute settlement bodies must meet the statutory requirements throughout the period of validity of their certification. Section 5(6) of the DADG allows the period of validity to be limited. The Bundesnetzagentur generally plans to limit the period of validity to five years to provide for planning certainty and perspectives. However,

the period of validity of certification will be decided on a case-by-case basis. Under section 5(6) of the DADG, the Bundesnetzagentur can extend certification with a limited period of validity if the requirements for certification continue to be met and compliance can be demonstrated.

2.3.3 Details of impartiality and independence

The impartiality and independence of a decision-making dispute settlement body are the basic prerequisites for out-of-court dispute settlement. The Bundesnetzagentur will assess the impartiality and independence of a dispute settlement body as a whole. For instance, it is important for the Bundesnetzagentur to understand a dispute settlement body's organisational structure and financial independence as well as the control mechanisms and procedures that an applicant plans to introduce to ensure impartiality and independence.

The obligation of impartiality prohibits giving subjective preferential treatment to one of the parties in a dispute.

It is important for the Bundesnetzagentur to understand how an applicant intends to nominate or appoint mediators and which procedures are planned to ensure that mediators have the necessary knowledge, skills, experience, independence and impartiality. Clear procedures should also be in place for ending a mediator's activities if there are good reasons to do so. The circumstances under which a mediator's activities can be ended should be made clear.

Dispute settlement bodies must be impartial and independent with respect to the actors under the Data Act (data holders, data recipients, users, customers and providers of data processing services). They must also be impartial and independent with respect to the individual persons or enterprises that have lodged complaints.

Dispute settlement bodies must have specific, detailed processes and policies in place to ensure that mediators are independent of third-party influence and must demonstrate that these processes and policies are in place. They must also demonstrate the impartiality. In addition, bodies must demonstrate compliance with the obligation to make decisions strictly on the basis of objective and appropriate criteria. They must also guarantee the independence and impartiality of any external staff (technical experts) engaged.

With respect to the rules on impartiality (objectivity in the matter), the principles applicable to section 42 of the German Code of Civil Procedure (ZPO) can be followed. Possible policies and processes include rules on conflicts of interests, rules for before and after appointment and service, codes of conduct and (sworn) declarations by mediators. The rules of procedure or rules on conflicts of interest for employees, board members and mediators should set out the measures to be taken and the procedure in the event of a conflict of interests. One possible measure is for the person concerned to disclose the conflict and withdraw from the case.

The requirement for impartiality and independence in Article 10(5)(a) of the Data Act also means that remuneration for members of a dispute settlement body must not depend on the outcome of dispute settlement proceedings. It follows that the design of both the fee structure and the remuneration system must be neutral and must not favour any particular outcome. For instance, members or mediators can receive a fixed annual salary covering all cases in a year or a flat-rate remuneration for each dispute settled irrespective of the outcome. An essential feature of the design of the remuneration model is that it does not have any incentive effect influencing impartiality or independence in any particular direction.

The Bundesnetzagentur requires information about the employees and shareholders of a dispute settlement body or about the legal entity behind a dispute settlement body because it is important for the Bundesnetzagentur to understand the extent to which the dispute settlement body's decision-making and review processes could be influenced. Mediators must not be active for any of the parties involved in the dispute settlement procedure during the course of their activities. This rule also applies to companies affiliated due to cross-shareholding, as in the case of group companies and (fellow) subsidiaries, etc. Independence must be secured by relevant rules in employment, service or work contracts and in the rules of procedure and must be demonstrated to the Bundesnetzagentur.

Information about a dispute settlement body's management or executive board (or person(s) with equal ranking) is also required because it is likewise important for the Bundesnetzagentur to understand who makes strategic decisions for the dispute settlement body and whether such decisions can be made on behalf of another person (such as an owner of the dispute settlement body).

It is important for the Bundesnetzagentur to be aware of any relationships between an applicant or mediators and other individuals or entities to assess whether the arrangements and controls in place to guarantee the independence of the applicant and the impartiality of the applicant's decision-making are appropriate. The principles applicable to section 42 ZPO can also be followed with respect to independence.

If an applicant is a public entity, it is also important for the Bundesnetzagentur to understand the entity's legal objectives and ensure that no obligations exist that could affect the entity's independence or impartiality.

Independence within the meaning of Article 10(5)(a) of the Data Act includes financial independence from the actors under the Data Act (data holders, data recipients, users, customers and providers of data processing services), including the individual persons or enterprises that have lodged complaints. It is important for the Bundesnetzagentur to understand how a dispute settlement body is financed and which ongoing agreements and controls have been put in place with respect to financing to guarantee independence.

There must be no economic dependence on stakeholders from certain groups of actors (data holders, data recipients, users, customers and providers of data processing services) or on the parties involved in dispute settlement proceedings. There must also be no financial interest in a particular outcome of dispute settlement proceedings.

The Data Act does not include any rules on the financing model for dispute settlement bodies. A body's operations may be financed entirely from the fees charged for dispute settlement. It may also receive public funding or have various funding sources, including third-party funding. In this case, the body should not be dependent on one single source of funding that could lead to a conflict of interests or call into question the independence of the body or the impartiality of the body's decision-making process. The supporting documents submitted to the Bundesnetzagentur with an application must include details and proof of the dispute settlement body's financing. The Bundesnetzagentur will, where appropriate, take into account the details of financing, such as the diversification of funding sources, the amount and share of each funding source in relation to the dispute settlement body's total financing requirements, the type of financing (one-off, ongoing, etc), the

relationship between the body and any third-party funders, agreements or arrangements regarding such financing, and the policy of the funders with respect to the financing.

Examples of supporting documents:

- Commercial register extract for the established dispute settlement body
- List of shareholders and shareholdings in the dispute settlement body and details of the specific shares held
- Details of economics dependence on data holders, data recipients, users, customers and providers of data processing services in recent years
- Curricula vitae for the proposed mediators
- Rules of procedure

2.3.4 Clear, non-discriminatory and fair rules of procedure

Article 10(5)(a) of the Data Act requires dispute settlement bodies to issue their decisions in accordance with clear, non-discriminatory and fair rules of procedure.

The rules of procedure should set out certain positive obligations for the parties involved in dispute settlement proceedings arising from the principle of good faith as well as the consequences of non-compliance with and/or rejection of certain cooperation obligations. The principle of good faith is established in European law and imposes positive behavioural obligations on the parties in this context to cooperate in the processes and procedures of dispute settlement bodies with the real aim or intention of settling disputes, for example by cooperating in gathering evidence, adhering to agreed time frames and generally refraining from any conduct or action that could frustrate or undermine the dispute settlement proceedings. Good faith therefore includes respect for the procedure, cooperation, honesty and sincerity of intentions, reasonableness and consideration for the interests of the other parties.

The rules should be clear and fair for all parties in a dispute and should take due account of the parties' rights and interests. The Bundesnetzagentur will assess the fairness of the proposed rules of procedure as a whole. The following is a list of some of the aspects that should be covered by the rules:

- proposed time frames for dispute settlement proceedings and decision-making, and the timing of the start of proceedings,[1]
- right of parties to express their points of view,
- making available written submissions to the body,
- communication between the body and the parties and (if applicable) between the parties,

[1] For further information, see 2.3.5.

- confidentiality of content,
- gathering of evidence by the body,
- rules on cooperation obligations for parties in a dispute,
- appointment and removal of decision-makers,[2]
- impartiality and independence of decision-makers and rules on conflicts of interests,[3]
- fairness of the decision-making process and the final decision,
- rights of the parties,
- fee model and rules on costs and expenses (complexity of the case, reimbursement mechanism, qualified and non-qualified expenses).[4]

Dispute settlement bodies must give parties the possibility to express their points of view. To facilitate progress in proceedings, parties can be given a deadline for submitting their views. Applicants must ensure that their processes are designed so that all relevant information and written submissions known in connection with the subject matter of a dispute are always made available to all parties. Parties in a dispute must be granted the possibility, within a reasonable period of time, to express their points of view. Any information gained in proceedings may only be used for the purpose of the proceedings and must not be given to third parties. The rules of procedure should include rules on preserving confidentiality. Information that is classified as trade and business secrets may be redacted by parties, but dispute settlement bodies are entitled to view unredacted copies of the information. Dispute settlement bodies can request parties to explain why information is to be considered confidential. Dispute settlement bodies are responsible for treating content classified by parties as trade and business secrets as confidential and in particular for not disclosing such content to the other parties. The provisions of Article 10(8) of the Data Act remain unaffected.

Situations are conceivable in which a dispute settlement body or the mediators acting for the body cannot assess a factual issue relevant to the decision on the basis of their own expertise or in which a question relevant to the decision concerning the underlying issue cannot be definitively clarified and remains a point of dispute between the parties. In these situations, the dispute settlement body can gather evidence. In this case, the principles of the ZPO on gathering evidence (section 355 et seq ZPO) can be followed.

Decisions must be based as far as possible on evidence and on the principles of the rule of law, fairness and impartial proceedings. The use of technical aids (such as artificial intelligence) in the work of a dispute settlement body is generally permissible. Dispute settlement bodies are responsible for reviewing results if technical aids are used. Dispute settlement bodies are liable for the use of technical aids in accordance with general principles. The use of technical aids such as artificial intelligence must be disclosed and detailed in the rules of procedure (principle of transparency). If the case processing system includes automated functions, applicants should explain in which form and at which stages of the procedure technical aids are used and at which points

[2] For further information, see 2.3.5.

[3] For further information, see 2.3.3.

[4] For further information, see 1.2.4.

human expertise is used. The final decision on the subject matter of a dispute must always be made by a human mediator.

The final decision by a dispute settlement body must be supported by a statement of reasons and formally served on the parties. The decision must be clear and enforceable.

The parties' rights include the right to seek independent counsel or be represented or supported by a third party at any stage of the procedure and the right to take legal action at any stage of the procedure.

Dispute settlement bodies must provide for a procedure in which parties must disclose whether the dispute has already been brought before another body or before a court or tribunal. Article 10(7) prohibits a dispute being dealt with by more than one body, court or tribunal, and dispute settlement bodies must refuse to deal with disputes that have already been brought elsewhere. If it emerges after the start of proceedings that a dispute has already been brought elsewhere, the subsequent proceedings must be discontinued. The costs of the proceedings should be charged to the party that brought the dispute elsewhere.

Examples of supporting documents, unless otherwise uploaded:

- Description of the dispute settlement body's website
- Rules of procedure
- Description of technical aids

2.3.5 Details of expertise

Article 10(5)(b) of the Data Act requires dispute settlement bodies to have expertise, in particular in relation to setting fair, reasonable and non-discriminatory terms and conditions, including compensation, and on making data available in a transparent manner.

The information provided by an applicant must enable the Bundesnetzagentur to assess whether the entity has the knowledge and expertise to meet the requirements under the Data Act.

Applicants must state which of the possible subject matters of dispute settlement proceedings they would like to deal with and must provide details of relevant expertise. It is possible for an applicant to receive certification for only some of the possible subject matters, in which case certification is restricted in line with the application and the expertise demonstrated. The subject matters that can be dealt with in accordance with Article 10(1) and (4) of the Data Act are all listed in points 1 to 5 below. It should be noted that the subject matters listed in points 1 to 4 together comprise one single subject area; certification can be restricted to the whole subject area but not to any of the individual subject matters. By contrast, the subject matter in point 5 is a separate subject area; certification can therefore be restricted to this one subject area and certification can also be extended to include this subject area.

- Disputes between a user and a data holder relating to contractual restrictions or prohibitions on access to security-related data concerning the security requirements of a connected product as laid down by law, pursuant to Article 4(3) of the Data Act

- Disputes between a user and a data holder relating to withholding data sharing on account of trade and business secrets, pursuant to Article 4(9) of the Data Act
- Disputes between a third party and a data holder relating to withholding data sharing on account of trade and business secrets, pursuant to Article 5(12) of the Data Act
- Disputes between users, data holders and data recipients relating to the fair, reasonable and non-discriminatory terms and conditions for, and transparent manner of, making data available, pursuant to Chapter III and Chapter IV of the Data Act
- Disputes between customers and providers of data processing services relating to breaches of the rights of customers and the obligations of providers of data processing services, pursuant to Articles 23 to 31 of the Data Act.

Applicants must be able to demonstrate that the mediators have the necessary knowledge, expertise and skills for the particular disputes as well as other relevant expertise to ensure that they can perform their tasks effectively. Applicants must demonstrate that the dispute settlement body employs mediators with the relevant legal expertise (qualified to exercise the functions of a judge) and relevant technical background knowledge for each of the subject areas to guarantee that complex issues can be dealt with properly. However, it is not necessary for each mediator to be qualified to exercise the functions of a judge or have the relevant technical competence as long as individual persons with relevant skills/knowledge are involved in the decision-making process. Applicants must also demonstrate economic expertise with respect to the subject matter in point 4. This requirement can also be met by consulting with persons with the relevant expertise on a case-by-case basis.

Mediators should also have experience and/or formal training and qualifications relevant to the settlement of disputes (for example dispute settlement training, competence in mediation). Other relevant experience can include market or product knowledge, for example knowledge of the functioning of connected products or data processing services, if necessary for a proper assessment of the case.

The Bundesnetzagentur's assessment of the "expertise" criterion also depends on the proposed dispute settlement model. Various types of dispute settlement model can be used under the Data Act. For instance, some bodies may use internal panels or expert committees, while others may use external decision-makers. The model can be based on aspects of mediation and dispute settlement. If, for example, the proposed model provides for a committee or panel of decision-makers, the overall range of skills and expertise is more important than the experience of the individual decision-makers. Details should be provided of the mediators' qualifications, knowledge and professional background and of the role the mediators will play in the dispute settlement procedure. Details should be provided of any training given (upon appointment or ongoing).

Examples of suitable supporting documents:

- Curricula vitae for the mediators
- Proof of mediators' qualifications
- Proof of dispute settlement training
- List of expertise with respect to the disputes listed in Article 10(1) and (4) of the Data Act
- Proof of experience in activities related to dispute settlement

2.3.6 Details of accessibility through electronic communication technology

Article 10(5)(c) requires dispute settlement bodies to be easily accessible through electronic communication technology. This usually means that the dispute settlement procedure is initiated through electronic communication technology and the necessary supporting documents can be submitted online.

Dispute settlement bodies should have a robust, secure and user-friendly website. A website is expected to:

- provide information about the organisation of the dispute settlement body;
- provide information about the procedure (including the specialist areas, language(s), fee model, rules of procedure, etc);
- enable the online submission of an initial application and the necessary information and supporting documents;
- enable the secure transmission and/or exchange of information and supporting documents required from parties at all stages of the dispute settlement proceedings.

The rules of procedure and all information about a dispute settlement body and the dispute settlement procedure must be made available to parties in advance.

A translated version of the website should be available in the language of each country in which a dispute settlement body offers its services.

2.3.7 Details of the length of proceedings, efficiency, costs and language skills

Dispute settlement bodies must be capable of adopting their decisions in a swift, efficient and cost-effective manner in at least one official language of the Union.

Speed, efficiency and cost-effectiveness

Article 10(5)(d) of the Data Act requires dispute settlement bodies to be capable of adopting their decisions in a swift, efficient and cost-effective manner. Article 10(9) of the Data Act states that a decision by a dispute settlement body must be adopted within 90 days of receipt of a request and that the decision must be in writing or on a durable medium and supported by a statement of reasons.

The Bundesnetzagentur must be able to determine on the basis of the organisational, institutional and personnel arrangements in place that a dispute settlement body can make decisions on disputes within the period of time specified in the Data Act.

The information provided by an applicant about the intended model should clearly show who is involved in the decision-making process (technical experts, etc) and whether the final decision is taken by one individual person, a panel of decision-makers or full-time employees of the body. In addition, applicants should explain their case management or case escalation systems and procedures if the systems and procedures can affect the final decision on the dispute.

If the dispute is reviewed by a panel of members, the applicant must explain how a collective decision is taken (for example by voting or consensus) and which role the chairperson will play. Applicants must demonstrate how it is ensured that the members of the panel collectively have the necessary expertise and skills.[5]

The dispute settlement procedure must be allocated adequate technical, financial and human resources to ensure that disputes can be reviewed and settled fairly, effectively and swiftly.

Fee for activities as a dispute settlement body

Dispute settlement bodies can charge the parties fees for the services they provide. The fees charged by dispute settlement bodies must cover the costs and can allow a reasonable profit. A secure economic basis helps to guarantee independence and limit the risk of being influenced by financially strong actors. The time and work involved in settling a dispute can differ depending on the nature and complexity of the case; this can be reflected in different fees. The fees charged must each be reasonable and proportionate. The fees should be calculated on the basis of reasonable and objective criteria that are proportionate to the nature and scope of the work involved in settling a particular dispute.

Article 10(2) of the Data Act requires dispute settlement bodies to make the fees, or the mechanisms used to determine the fees, known to the parties in dispute settlement proceedings before the parties request a decision. The principles and systems for the payment and reimbursement of fees and the assessment of expenses must be clear and transparent (for example by publishing a list of fees, a list of allowable and disallowable expenses or a fee estimate).

Account must be taken of Article 10(3) of the Data Act in the distribution of the costs. This provision states that if a dispute settlement body decides a dispute referred for settlement pursuant to Article 4(3) of the Data Act in favour of a user or data recipient, the data holder must pay all the fees charged and must reimburse the user or data recipient for any reasonable expenses incurred in relation to the dispute settlement. If the dispute settlement body decides in favour of the data holder, the user or data recipient does not have to reimburse any fees or other expenses that the data holder has incurred in relation to the dispute settlement, unless the user or data recipient has manifestly acted in bad faith.

In cases not covered by the rules in Article 10(3) of the Data Act, it seems appropriate to distribute the costs in line with the general principles of the ZPO (section 91 ZPO), that is proportionally based on the degree to

[5] See e) Details of expertise.

which the decision was in favour of or against the parties in the proceedings. However, it also seems reasonable to assume that the costs in cases not covered by Article 10(3) of the Data Act will generally be divided equally between the parties. Other cost arrangements can be made for special cases, for example when dispute settlement proceedings are discontinued.

Language skills

Article 10(5)(d) of the Data Act requires applicants to demonstrate that they have knowledge of at least one official language of the European Union. Proof of language skills can vary and can include, for example, several years' training or work in a country or language courses with a qualification certificate.

Examples of supporting documents:

- Description of the dispute settlement body's website
- Curricula vitae for the mediators
- Proof of mediators' qualifications
- Proof of dispute settlement training/qualifications
- Experience in dispute settlement
- Planned case processing time frames/proof of adequate human resources
- Description of the case processing procedure
- List of fees
- Calculation of total costs/fees
- Mediators' language skills

List of abbreviations

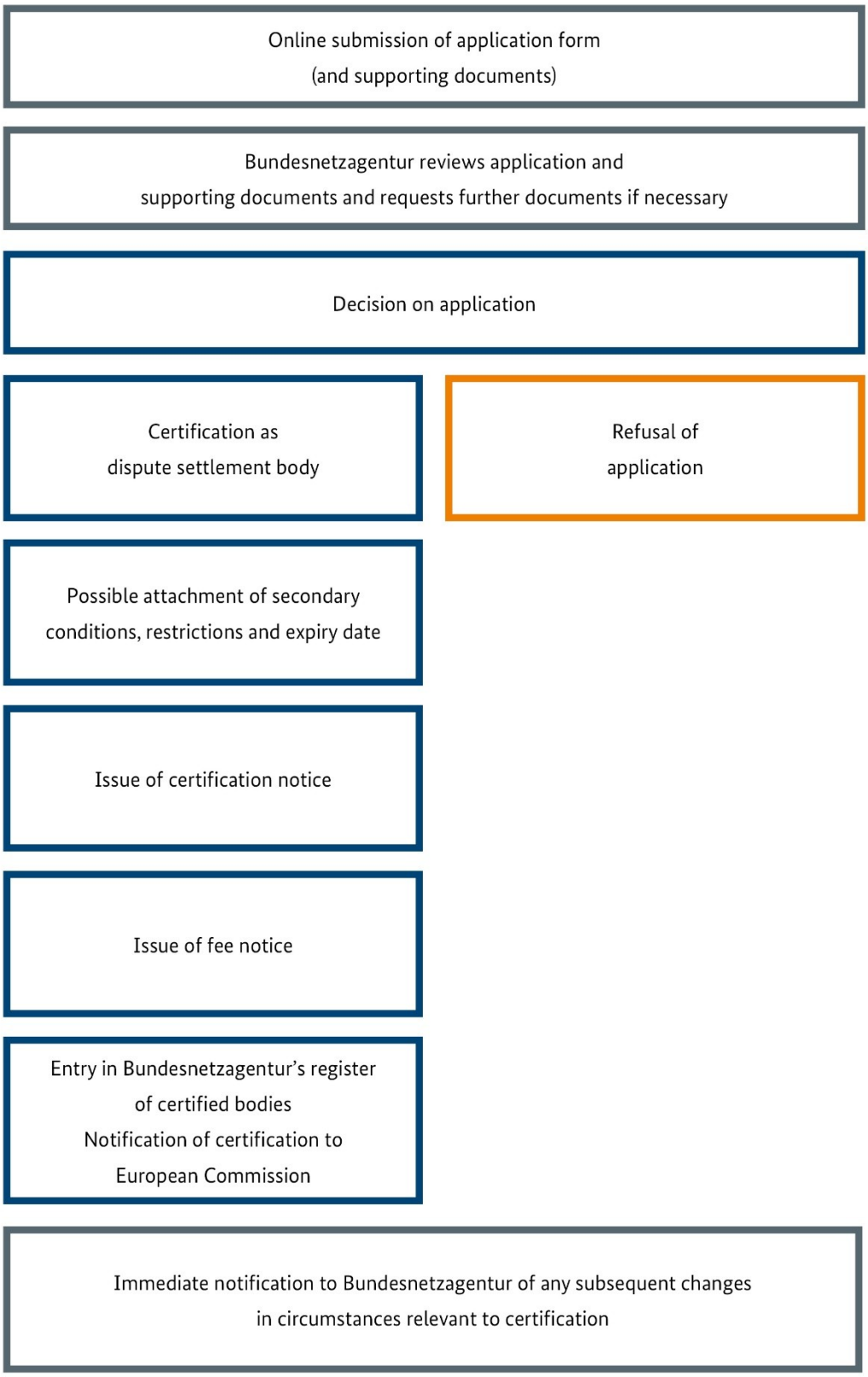
DADG	German government's legislation of implementing the Data Act
EU	European Union
IFG	German Freedom of Information Act
ZPO	German Code of Civil Procedure

Annex

List of possible supporting documents

- Commercial register extract for the established dispute settlement body
- List of shareholders and shareholdings in the dispute settlement body and details of the specific shares held
- Details of economics dependence on data holders, data recipients, users, customers and providers of data processing services in recent years
- Curricula vitae for the proposed mediators
- Proof of mediators' qualifications
- Proof of dispute settlement training
- Proof of experience in activities related to dispute settlement
- Description of the dispute settlement body's website
- List of expertise with respect to the disputes listed in Article 10(1) and (4) of the Data Act
- Rules of procedure
- Planned case processing time frames/proof of adequate human resources
- Description of case processing procedure
- List of fees
- Calculation of total costs/fees
- Mediators' language skills
- List of technical aids used

Stages of the procedure for certification as an out-of-court dispute settlement body under the Data Act



Publisher's details

Publisher

Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen

Tulpenfeld 4

53113 Bonn

Ordering address | Contact

Section 902

Tulpenfeld 4

53113 Bonn

DataAct@bnetza.

Tel. +49 228 14-0

Last revised

May 2026

Printing

Bundesnetzagentur

Text

Section 902

bundesnetzagentur.de

x.com/BNetzA

social.bund.de/@bnetza

youtube.com/BNetzA